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STATE OF NORTH CAROLINA



GOVERNMENTAL EVALUATION COMMISSION REPORT

ON

NORTH CAROLINA STATE BOARD OF EXAMINERS IN
WATCHMAKING AND REPAIRING

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FEB 27 1979

INSTITUTE OF GOVERNMENT
UNIVERSITY OF NORTH CAROLINA

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TABLE OF CONTENTS

	PAGE
SUMMARY	ii
RECOMMENDATIONS	iii
CONCLUSIONS	iii
FINDINGS	iv
INTRODUCTION TO GOVERNMENTAL EVALUATION COMMISSION	1
SCOPE OF THE EVALUATION	3
HISTORICAL BACKGROUND OF WATCHMAKER'S STATUTE	6
EVALUATION ELEMENTS	9
TABLE 1	23
TABLE 2	23
TABLE 3	24

SUMMARY

As directed by General Statutes, Chapter 143, Article 1.1, the Governmental Evaluation Commission has conducted its evaluation of the Board of Examiners in Watchmaking and Repairing, created by General Statutes, Chapter 93C.

The Commission concludes that regulation of the practice of watchmaking is not necessary to protect the public from potential serious harm. There is little that watchmakers do in their vocation that could be of serious harm to the public's health, welfare, or safety. The regulation of any vocation where skill is necessary can not be justified if there is no substantial relationship between the legislation and the public health, safety, or welfare.

To re-establish the statute and continue such governmental interference would be to approve the entry of government into every conceivable vocation where some skill was employed. To re-establish the statute would complicate government and detract from the amount of energy state government has available to be spent on more productive outcomes.

For these reasons, the Commission recommends that the regulation of watchmakers be ended and that the Board of Examiners in Watchmaking and Repairing be terminated.

The Commission recommends that Chapter 93C of the General Statutes, entitled "*Watchmaking*", not be continued.



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RECOMMENDATION:

We recommend that the provisions of General Statutes Chapter 93C, entitled "WATCHMAKING", which regulates the practice of watch and clock repairing, not be continued or re-established.

CONCLUSIONS:

We conclude that regulation of the practice of watchmaking is not necessary to protect the public from potential serious harm. In the practice of watchmaking, there is little that watchmakers do that could be of serious harm to the public's health, welfare or safety. Without the regulation, the public can tolerate the potential abuses, misrepresentations, false advertising, and incompetency that the statute is designed to prevent in the business of watchmaking.

To re-establish the statute and continue such obvious governmental interference would be to approve the entry of government and detract from the amount of energy state government has available to be spent on more productive outcomes.

Governmental Evaluation Commission
Report on Watchmaking

FINDINGS:

There are presently 936 licensed watchmakers in North Carolina.¹ In practice, the term watchmaker is really a misnomer. There are no practicing true watchmakers in the state; however, by statutory definition the words watchmaker and watchmaking are used synonymously with and mean watch repairing. The words are defined in the statute as engaging in the business of repairing, replacing, rebuilding, reconditioning, cleaning and adjusting the mechanical parts of watches as well as manufacturing and fitting parts designed for use or used inside watches and other time recording instruments. The Board's activity focuses primarily on the repair of watches rather than on their manufacture.

Although the statute makes no distinction between watchmakers and clockmakers, the Board treats the two trades differently. While watchmakers are qualified to be clockmakers, the reverse is not true. A person licensed as a watchmaker may practice clockmaking but one licensed as a clockmaker can only practice clockmaking.

The Board interprets the statute to apply to the repair of the mechanical parts of watches only, which are watches that are powered by a mainspring.

The interpretation excludes from the jurisdiction of the Board any work on battery powered digital watches made of replaceable component parts.

The watchmaker examination is administered and graded by the Board. The Board has adopted an examination designed by the American Watchmakers

Governmental Evaluation Commission
Report on Watchmaking

Institute. This examination is given on a voluntary basis to watchmakers across the country who wish to be certified by the national association, and includes both theoretical and practical problems. A passing grade of 70 is required. The Board is presently in the process of designing a clockmakers' examination. Prior to this year, clockmakers were licensed under the grandfather clause of the statute.

Licenses are issued to licensees of other states whose licensing standards are as high as those in North Carolina, and if the state extends the same privilege to North Carolina residents.

The Board issues temporary licenses to applicants which allows the applicant to work until he can take the next scheduled examination. The competency of these licensees is not measured prior to issuance of the temporary license. The work of these licensees is not required to be supervised.

The Board of Examiners of Watchmakers has been in existence over ten years. The Board has never found cause to institute disciplinary actions of any kind, or suspend or to revoke a license. The Board does not actively monitor its licensees to assure compliance with applicable rules and regulations.

The Board does not attempt to investigate moral character of its applicants, but relies on the submission of character references by the applicant. There has never been a consumer complaint against a licensee of the Board. There is no evidence that the public has ever questioned the competency of a watchmaker or that the public has been harmed by incompetent watchmakers.

Governmental Evaluation Commission
Report on Watchmaking

The Board states that its objectives are oriented toward consumer protection. The Board seeks to assure the public that watchmaking services are performed with a high degree of skill, and to foster an image of the watchmaking profession that inspires the public trust. There is no indication that the public has ever questioned the competency or trustworthiness of licensees of the Board.

The Board has used little of its enforcement power, and the absence of this type of Board action has caused no discernable harm to the public health, safety or welfare.

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1. On November 1, 1978 the number of licensees were:

Apprentice	6
Temporary	20
Watchmaker and Clockmaker	<u>936</u>
Total	962

Governmental Evaluation Commission
Report on Watchmakers
Page 1

INTRODUCTION TO GOVERNMENTAL EVALUATION COMMISSION

Chapter 143, Article 1.1, of the General Statutes terminates the regulation of various occupations. By repealing the laws establishing them, a number of boards and commissions that license or regulate occupations are scheduled to be terminated every two years. One-third of the total of these agencies will cease to exist on July 1, 1979, unless re-established by the General Assembly.

The statute requires that prior to termination each agency be reviewed by the Governmental Evaluation Commission. The Commission is charged with conducting a "performance evaluation of each program or function scheduled for termination."

Upon completion of the evaluation, the Commission will submit a report to the General Assembly, including a recommendation as to whether the program or function in question, and the responsible agency, "should be terminated, reconstituted, re-established, or continued with or without modification of the relevant statutes."

The statute states that the Commission's basic determination is "*of the need for continuance of an agency program or function*", and that it shall use 13 listed evaluation elements in making its determination. The Commission is not limited to the use of the 13 elements in determining the presence of a public need for the continuance of a program or agency.

Governmental Evaluation Commission
Report on Watchmakers
Page 2

The Commission was authorized to employ a staff to help it in its work. The staff will conduct an evaluation and report its findings to the Commission in a staff report. The agencies may be given the opportunity to appear before the Commission and respond to the staff report. After making any modifications it believes desirable, the Commission will adopt a Proposed Commission Report.

The statute requires that public hearings be held on the proposed report, after a notice of the substance of the report and other details of the hearing is published. Upon completion of the hearing and consideration of the submitted evidence and arguments with respect to this evaluation, the Commission shall adopt its final recommendations. These recommendations will then be submitted to the General Assembly for its deliberation.

SCOPE OF THE EVALUATION

The purposes of the evaluation process are stated in the statute creating the Governmental Evaluation Commission.

§143-34.10. Findings and purposes. - The General Assembly finds that state government actions have produced a substantial increase in numbers of agencies, growth of programs, and proliferation of rules and regulations and that the whole process developed without sufficient legislative oversight, regulatory accountability, or a system of checks and balances. The General Assembly further finds that by establishing a system for the termination, continuation, and re-establishment of such agencies, it will be in better position to evaluate the need for the continued existence of existing and future regulatory bodies.

A recommendation on the "need for the continued existence of existing....regulatory bodies" is the end product of this evaluation process. An evaluation of "need" for the continued existence must focus on the public benefits resulting from the continued existence of a program or agency. The benefits to the persons the agency regulates are not reasons for continuing the agency.

In focusing on "need" the inevitable question that must be considered is: What is the harm to the public if there is no regulation of the occupation?

It can be argued that some possible harm is present in allowing unlicensed persons to serve the public in any occupation or capacity. There is always some risk that a member of the public will choose the wrong person in a selection process where there is no knowledge of competency or honesty. However, this selection process is a hallmark and strength of the free enterprise system.

On the other hand, regulation in any form, by any means, is

restrictive of certain individual liberties protected by Article 1.1 of the North Carolina Constitution, which provides that all persons are afforded rights of "life, liberty, and the enjoyment of the fruits of their on labor, and the pursuit of happiness." The state, through its police power, may enact legislation which invades these rights only if there is a real and substantial relationship between the legislation and the protection of the public health, safety, or welfare.

In the evaluation process, the underlying question asked by the legislature can be stated: Is this regulation a proper exercise of the state's police power? Is the public need for regulation sufficient to justify making available to the regulatory body the authority of the State of North Carolina to imprison, to fine, and to deprive the right of earning a living to a person who violates the regulatory statute? The regulatory statute makes available to the agency, for enforcement, the State Judiciary, the State Attorney General, the police, and the power to collect money for use of the agency.

The evaluation question to be answered could be stated another way: Does this regulatory statute protect the public from potential serious harm so that if there were no statute, serious harm would be done to the public's health, safety, or welfare?

The key words are "serious harm". If the answer to the evaluation question is "No", then there is no public need for the program or agency and the statute must not be continued.

If the answer is "Yes", then the Commission must look at all parts of the program and agency to determine if they are doing what the statute

Governmental Evaluation Commission

Report on Watchmaking

Page 5

calls for them to do in an efficient and effective manner.

The General Assembly is the final authority on the recommendations of the Commission. A Committee of Reference in each House of the General Assembly will hold a public hearing on the recommendations relating to each agency. In the hearing the agency has the burden of demonstrating a public need for the continued existence of the agency and its program or function.

HISTORICAL BACKGROUND OF THE WATCHMAKERS' STATUTE

As early as 1947, members of the North Carolina Watchmaking Association began proposing legislation for the regulation of the watchmaking profession. This organization recognized a need to regulate in order to eliminate spurious practitioners and "fly by night" operations which did not lend themselves to the public trust. In the late 40's, after the war, there was a great influx of people into the profession. The situation was ripe for incompetent watchmakers to defraud the public.

More concerned than ever over the misgivings the public expressed about unscrupulous practitioners, the association once again sought passage of some regulatory legislation in 1967. In answer to this request, the North Carolina General Assembly enacted G.S. 93C in 1967, effective in 1968.

The Board consists of five members, each being a licensed watchmaker.

The present Board members are:

President Albert F. Rhodes of Wilmington
Owen Dewar of Durham
Joseph Crooks of Mooresville
Alban Fair of Warrenton
Walter Hanson of Charlotte

There are eleven states that regulate the watchmaking profession in some form. North Carolina has the most recent licensing statute. The other states are Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, North Dakota, Wisconsin, Oregon and Florida.

To be licensed as a watchmaker, an applicant must pass an examination administered by the Board or be granted a license without examination by having practiced in another state or this state for a year before July 1, 1967. In addition to a watchmaker's license, the Board also issues licenses for apprentices and clock makers.

The Board is composed of five members, each being a licensed watchmaker who has practiced in this state for at least two years. There is no provision for a public member on this Board.

The primary statutory function of the Board is licensing and enforcement. The Board administers the examination for licenses semi-annually on the knowledge and skills necessary for the proper repairing of watches. There are no formal education requirements.

The Board may inspect the place of business conducted as a watch repair business only after a written complaint has been made to the Board of the operations and practices of the enterprise to be inspected or investigated.

The statute authorizes the Board to issue regulations after a public hearing with adequate notice of the hearing.

By definition, for licensing purposes clocks are made synonymous with watches, and the making of clocks and watches means repairing of clocks and watches.

Governmental Evaluation Commission

Report on Watchmaking

Page 8

The Board may refuse to issue a license and may revoke or suspend a license if the holder commits any of a list of acts, or has been convicted of any actions involving moral turpitude. The chapter may be enforced by injunction or criminal prosecution, or both.

EVALUATION ELEMENTS

The statute lists 13 evaluation elements to be used in making a determination of the need for continuance of an agency program or function. The statute specifically allows other evaluation elements to be used.

The performance evaluation of the Board of Examiners in Watchmaking and Repairing using the 13 statutory evaluation elements follows.

EVALUATION ELEMENT #1

AN IDENTIFICATION OF THE OBJECTIVES INTENDED FOR
THE AGENCY PROGRAM AND THE PROBLEM OR NEED WHICH
THE PROGRAM WAS INTENDED TO ADDRESS.

North Carolina G.S. 93C-1 provides, "this chapter is designed and intended to protect the public against abuses, misrepresentations, false advertising and incompetency in the business of watchmaking and watch repairing."

EVALUATION ELEMENT #2

AN ASSESSMENT OF THE DEGREE TO WHICH THE ORIGINAL OBJECTIVES OF THE AGENCY PROGRAM HAVE BEEN ACHIEVED EXPRESSED IN TERMS OF PERFORMANCE, IMPACT, OR ACCOMPLISHMENTS OF THE PROGRAM AND OF THE PROBLEM OR NEED WHICH IT WAS INTENDED TO ADDRESS. SUCH ASSESSMENT SHALL EMPLOY PROCEDURES OR METHODS OF ANALYSIS WHICH THE COMMISSION DETERMINES TO BE APPROPRIATE TO THE TYPE OR CHARACTER OF THE PROGRAM.

The original licensing law was intended to get rid of incompetent watchmakers and watch repairmen. The law has been in effect since January 1, 1968.

The grandfather clause of the statute allowed the licensing of persons who had practiced the craft for a total period of one year before July 1, 1967. It is logical to assume that any incompetent craftsman practicing the trade before the statute took effect either did not apply for a license or was licensed under the grandfather clause and has become competent enough to escape complaints against him.

The Board's records show that it has never received a complaint from a consumer; that no license has ever been suspended or revoked because of incompetency; and that there is no monitoring of performance to check for continued competency or compliance with current rules and regulations.

EVALUATION ELEMENT #3

A STATEMENT OF THE PERFORMANCE AND ACCOMPLISHMENTS
OF THE AGENCY PROGRAM IN THE LAST FISCAL YEAR AND OF
THE BUDGETARY COSTS INCURRED IN THE OPERATION OF THE
PROGRAM.

In the past fiscal year, seven of the eighteen applicants who took the qualifying examination were granted watchmaking licenses. In addition, three licenses were granted by reciprocity, and five under the grandfather clause. Currently there are 936 licensed practitioners in North Carolina. (See Table 1)

The Board of Examiners has not exerted any regulation over its occupation in the last fiscal year nor in the four preceding years. No complaints have been processed, no disciplinary hearings have been held, no reprimands have been issued, nor have any licenses been revoked.
(See Table 2)

Although the table indicates that 14 licenses were suspended during the 1977-78 fiscal year, this number is not the result of disciplinary action taken, but is the number of licenses that were not renewed.

Operating on a limited budget, the Board of Examiners incurred total expenses of \$5,263 during the last fiscal year. Travel and per diem for board meetings constituted the greatest expenditure.

EVALUATION ELEMENT #4

A STATEMENT OF THE NUMBER AND TYPES OF PERSONS
SERVED BY THE AGENCY PROGRAM.

The statute creating the Board of Examiners is a practice act prohibiting non-licensees from engaging in watchmaking and repairing. No unlicensed practice was reported or found. It follows that the licensed practitioners perform all watchmaking and repairing service within the State of North Carolina.

As of November 1, 1978, the number of licensees in each category are:

Apprentice	-	6
Temporary	-	20
Watchmaker	-	936

Trustworthy reports show that 9 out of 10 adults and 8 out of 10 minors in the United States own at least one watch. This ratio can be substantiated by personal observation and experience.

No satisfactory method of determining the average cost of personal watches is readily available, but personal observation shows that prevalence of mass produced inexpensive watches, often repaired by the manufacturer at low cost, e.g. Timex, and the increasing number of electronic watches are usually repaired by replacing throw away components rather than tearing down and rebuilding the component.

No accurate count of users of the licensees service is available.

EVALUATION ELEMENT #5

A SUMMARY STATEMENT, FOR THE LAST COMPLETED FISCAL YEAR OF THE NUMBER BY GRADE, AND COST OF PERSONNEL EMPLOYED IN CARRYING OUT THE AGENCY PROGRAM AND A SUMMARY STATEMENT OF THE COST OF PERSONNEL EMPLOYED UNDER CONTRACT IN CARRYING OUT THE PROGRAM.

The program of the Board of Examiners in Watchmaking and Repairing was conducted exclusively by the Board's executive secretary. He received no compensation during the 1977-78 fiscal year. Cost of personnel was limited to a \$600 fee paid for the services of a technical consultant.

EVALUATION ELEMENT #6

AN ASSESSMENT OF THE DEGREE TO WHICH THE OVERALL POLICIES OF THE AGENCY PROGRAM, AS EXPRESSED IN THE RULES, REGULATIONS, ORDERS, STANDARDS, CRITERIA, AND DECISIONS OF THE AGENCY MEET THE OBJECTIVES OF THE GENERAL ASSEMBLY IN ESTABLISHING THE PROGRAM.

The original objective of the General Assembly in 1968 was to rid the public of incompetent watch repairmen and watchmakers.

Ten years of practice should have eliminated the incompetent persons practicing in the watch business in 1968 by weeding them out of the market place. The Board makes no effort to monitor or test licensees by renewal examinations and apparently has left the measuring of competency up to the laws of economic survival in a competing market of practitioners.

Presently the licensing requirements are the minimum to allow a practitioner to work without supervision. The consumer public can not determine whether the licensee is honest or competent to work on an expensive watch other than the fact that the licensee has survived in a competitive market.

The renewal of licenses has no relationship to competency and the only practical effect is the payment of renewal fees to the state for the Board to use in administering examinations to new applicants

EVALUATION ELEMENT #6 (Cont'd.)

The Board is prevented by the statute from inspecting a place of business unless there has been a written complaint directed to the Board complaining of the operations or practices of the enterprise to be inspected. This statutory requirement prevents any monitoring of the practices of the licensee by the Board on the Board's own initiative.

EVALUATION ELEMENT #7

AN ASSESSMENT OF THE EFFECT OF THE AGENCY PROGRAM
ON THE STATE ECONOMY INCLUDING COSTS TO CONSUMERS
AND BUSINESSES.

The total revenue of the Board was \$9,000 in FY 77-78 and the same for FY 78-79. Assuming that the licensees pass this expense on to their customers, the spreading of \$9,000 among the customers in this state is a small per capita cost.

Giving a person a license to work does not necessarily make that person honest. The amount of money the licensing saves the customer in preventing shoddy work can not be determined from available facts. There is no relationship between licensing and the honesty of a practitioner.

One must conclude that the licensing or non-licensing of watchmakers and watch repairmen has little effect on the state's economy.

EVALUATION ELEMENT #8

AN EVALUATION OF THE REPORTING AND RECORD-KEEPING REQUIREMENTS AND ACTIVITIES OF THE AGENCY PROGRAM, INCLUDING THE MANAGEMENT AND CONTROL OF INFORMATION AND RECORDS AND THE VALUE OF THE INFORMATION GATHERED COMPARED TO THE COST TO RESPONDENTS, AND AN ASSESSMENT OF METHODS TO REDUCE AND SIMPLIFY THE REPORTING AND RECORD-KEEPING REQUIREMENTS.

The Board does not require any operation records to be sent to it by the licensee. The annual relicensing and the processing of new licenses are the only paper flow activities of the Board.

EVALUATION ELEMENT #9

A SUMMARY STATEMENT OF THE BUDGET AND PROGRAM OF
THE AGENCY FOR THE CURRENT FISCAL YEAR AND BUDGET
PROJECTIONS FOR THE NEXT SUCCEEDING FISCAL YEAR IF
THE PROGRAM WERE TO BE CONTINUED.

Expenses for fiscal 78-79 are expected to exceed those of the past year by roughly 80% while revenue is expected to remain the same. The \$4,800 increase in expenses is attributable to a projected compensation payment of \$2,600 to the executive secretary, and \$1500 to the Board's attorneys. (See Table 3)

EVALUATION ELEMENT #10

AN ASSESSMENT OF WHETHER THE AGENCY HAS PERMITTED
QUALIFIED APPLICANTS TO SERVE THE PUBLIC, AND WHETHER
THE AGENCY HAS ENCOURAGED PARTICIPATION BY THE PUBLIC
IN MAKING ITS RULES AND DECISIONS, AS OPPOSED TO PARTI-
CIPATION SOLELY BY THE PERSONS IT REGULATES.

The Watchmaker's statute and the Board's regulations do not unduly restrict entry into the trade. The exception is the regulation that a licensee must be a U. S. citizen. This has been declared by the Supreme Court to be unconstitutional in another field.

The statutes and the regulations do not state any minimum level of competency to pass the examination other than the opinion of the Board as to the qualifications "essential in the proper repairing of watches", the theoretical knowledge of watch construction, and a "practical demonstration of the applicant's skill in the manipulation of necessary watchmakers tools."

The grandfather clause and the temporary license authorization for applicants while their application is being processed allows a person to practice when their qualifications are less than those necessary to pass the examination.

EVALUATION ELEMENT #11

AN EVALUATION OF THE EXTENT TO WHICH OPERATION HAS
BEEN EFFICIENT AND RESPONSIVE TO PUBLIC NEEDS.

We have concluded that the public need for this agency is minimal.

To meet whatever minimal public need is present, the operation of the Board has been efficient and responsive to these public needs. However, the public need for this agency could be met just as efficiently by a volunteer association affiliated with some national watchmaker's association. The state organization could set standards of admission similar to those set by the present Board of Examiners, and it could advertise the qualifications of its members. The risk to the public would be those accepted by the public in using the skills of persons specializing in other occupations.

EVALUATION ELEMENT #12

AN EVALUATION OF THE EXTENT TO WHICH COMPLAINTS HAVE
BEEN EXPEDITIOUSLY PROCESSED TO COMPLETION IN THE
PUBLIC INTEREST.

There have been no complaints to the Board.

EVALUATION ELEMENT #13

AN ANALYSIS OF THE SERVICES AND PERFORMANCE ESTIMATED
TO BE ACHIEVED IF THE AGENCY OR AGENCY PROGRAM WERE
CONTINUED.

The activities of the Board are now limited to receiving applications for licenses and administering examinations to applicants. No complaints have been filed.

If the program were continued, the services and performance to be achieved would still be processing applications and administering exams.

TABLE 1

LICENSING PROFILE

	1978	1977	1976	1975	1974
<u>APPLICATIONS:</u>					
For examinations	18	11	14	17	12
For reciprocity	3	0	0	6	0
Under grandfather clause	11	10	14	17	12
<u>EXAMINATIONS:</u>					
Administered	11	10	14	17	12
<u>LICENSES ISSUED:</u>					
By examination	7	6	10	15	12
By reciprocity	3	0	0	6	0
Under grandfather clause	5	6	10	15	0
<u>LICENSES RENEWED:</u>	(information not provided)				

TABLE 2

HISTORY OF ENFORCEMENT

	1978	1977	1976	1975	1974
Number of complaints processed	0	0	0	0	0
Number of disciplinary hearings	0	0	0	0	0
Number of licenses revoked	0	0	0	0	0
Number of licenses suspended	14	11	15	14	15
Number of reprimands	0	0	0	0	0

Table 3 - Budgets - Fiscal '78 & '79
 North Carolina State Board of Examiners in Watchmaking & Repairing

BUDGETS: Fiscal 77-78 Fiscal 78-79

Revenue:

Renewal fees:

Watchmaker	\$ 8100.00	\$ 8100.00
Clockmaker	210.00	210.00
Apprentice fees	15.00	15.00
Examination fees	525.00	525.00
Re-examination fees	30.00	30.00
Delinquent charges	120.00	120.00
Total revenue	9000.00	9000.00

Expenses:

Rent	600.00	600.00
Printing	300.00	300.00
Postage	300.00	300.00

Travel and per diem:

Board meetings	1600.00	1600.00
Examinations	525.00	525.00

Supplies and Materials:

General office	325.00	325.00
Examination	250.00	250.00

Other operating expenses:

Executive Secretary	-----	2600.00
Technical Consultant	600.00	900.00
Telephone	400.00	400.00
Insurance	13.00	13.00
Audit	250.00	250.00
Depreciation	100.00	100.00
Legal fees	-----	1500.00

<u>Total expenses:</u>	5263.00	9863.00
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<u>Excess of Revenue over (under) Expenses:</u>	3737.00	(863.00)
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